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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,

Civil Case No.

Plaintiff,

v.

COMPLAINT

REYNOLDS METALS COMPANY
and ALCOA, INC.,

Defendants.

Plaintiff United States of America, by authority of the Attorney General, on behalf of the
U.S. Environmental Protection Agency and the U.S. Department of the Interior, alleges as
follows:

I. GENERAL ALLEGATIONS

1. This is a civil action under sections 106 and 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9606 and 9607(a); section 311 of the Clean Water Act (CWA), 33 U.S.C. § 1321; and section 1002(b) of the Oil Pollution Act (OPA), 33 U.S.C. § 2702(b), for recovery of costs that have been and will be incurred in response to releases and threatened releases of hazardous substances, injunctive relief, and damages for injury to, destruction of, or loss of natural resources resulting from the release of hazardous substances and discharges of oil at the Reynolds Metals Superfund Site near Troutdale, Oregon.

II. JURISDICTION AND VENUE

2. This Court has jurisdiction over this case pursuant to sections 106, 107 and 113(b) of CERCLA, 42 U.S.C. §§ 9606, 9607 and 9613(b); section 311(n) of the CWA, 33 U.S.C. § 1321(n); section 1017(b) of OPA, 33 U.S.C. § 2717(b); and 28 U.S.C. §§ 1331, 1345 and 1367(a).

3. Venue is proper in this district pursuant to section 113(b) of CERCLA, 42 U.S.C. § 9613(b); section 1017(b) of OPA, 33 U.S.C. § 2717(b); and 28 U.S.C. § 1391(b) and (c).

III. THE SITE

4. The Reynolds Metals Superfund Site (the "Site") is a former aluminum production plant located near the City of Troutdale, Oregon.

5. The Site is contaminated with a variety of hazardous substances, including flouride, cyanide, polynuclear aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs) and metals.

6. The Columbia River, Sandy River and Salmon Creek adjoining the Site are navigable waters within the meaning of section 1001(21) of OPA, 33 U.S.C. § 2701(21), and section 502(7) of the CWA, 33 U.S.C. § 1362(7).

7. The aluminum production plant and the Site are facilities within the meaning of section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

8. There have been discharges and releases of hazardous substances and oil at the Site into the environment.

IV. DEFENDANTS

9. Defendant Reynolds Metals Company a corporation organized under the laws of the State of Delaware.

10. At times relevant to this Complaint, Reynolds Metals Company did business in this district.

11. Reynolds Metals Company is a wholly owned subsidiary of defendant Alcoa, Inc.

12. On information and belief, defendant Alcoa, Inc. is responsible for the activities of Reynolds Metals Company at the Site.

13. Defendant Alcoa, Inc. is a corporation organized under the laws of the State of Pennsylvania.

14. Alcoa, Inc. does business in this district.

15. Reynolds Metals has owned the Site since 1949.

16. Reynolds Metals operated the aluminum production plant at the Site from 1946 until at least 2000.

17. Defendants are persons within the meaning of section 107 of CERCLA, 42 U.S.C. § 9607.

V. FIRST CLAIM FOR RELIEF

18. Plaintiffs reallege paragraphs 1 through 17.

19. Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), provides in pertinent part:

In addition to any other action taken by a State or local government, when the President determines that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance from a facility, he may require the Attorney General of the United States to secure such relief as may be necessary to abate such danger or threat, and the district court of the United States in the district in which the threat occurs shall have jurisdiction to grant such relief as the public interest and the equities of the case may require.

20. Materials disposed of and released at the Site include hazardous substances within the meaning of sections 101(14) and 106(a) of CERCLA, 42 U.S.C. §§ 9601(14) and 9606(a).

21. Releases or threatened releases of hazardous substances have occurred at the Site within the meaning of sections 101(22) and 106(a) of CERCLA, 42 U.S.C. §§ 9601(22) and 9606(a).

22. EPA has determined that the release or threatened release of hazardous substances at the Site may present an "imminent and substantial endangerment to the public health or welfare or the environment" within the meaning of section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

23. Defendants are subject to the provisions of section 106(a) of CERCLA, 42 U.S.C. § 9606(a), and are liable to perform such measures as may be necessary to abate the danger or threat posed by the release or threat of release of hazardous substances at the Site.

VI. SECOND CLAIM FOR RELIEF

24. Plaintiff realleges paragraphs 1 through 23.
25. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides in pertinent part, as

follows:

Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (b) of this section -

- (1) the owner and operator of a vessel or a facility,
- (2) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of,
- (3) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at any facility or incineration vessel owned or operated by another party or entity and containing such hazardous substances, and
- (4) any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities, incineration vessels or sites selected by such person, from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance, shall be liable for
 - (A) all costs of removal or remedial action incurred by the United States Government or a State or an Indian tribe not inconsistent with the National Contingency Plan;
 - (B) any other necessary costs of response incurred by any other person consistent with the National Contingency Plan;
 - (C) damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from such a release;

(D) the costs of any health assessment or health effects study carried out under section 9604(i) of this title.

26. As a result of the releases or threatened releases of hazardous substances at the Site, the United States has incurred and will continue to incur response costs, including costs of removal or remedial action, as defined in sections 101(23), (24), and (25), 42 U.S.C. §§ 9601(23), (24), and (25), and as used in section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

27. The response and remedial actions taken by the United States in connection with the Site were not inconsistent with the National Contingency Plan, 40 C.F.R. Part 300.

28. The United States has satisfied any and all conditions precedent to a response action and to recovery of its costs under section 107 of CERCLA, 42 U.S.C. § 9607.

29. Defendants are liable to the United States for all costs of response, remedial, and removal actions incurred and to be incurred by the United States relating to the Site pursuant to section 107(a)(4) of CERCLA, 42 U.S.C. § 9607(a)(4).

VII. THIRD CLAIM FOR RELIEF

30. Plaintiff realleges paragraphs 1 through 29.

31. Pursuant to section 107(f) of CERCLA, 42 U.S.C. § 9607(f), section 1006 of OPA, 33 U.S.C. § 2706, section 311(f)(5) of the CWA, 33 U.S.C. § 1321(f)(5), and 40 C.F.R. § 300.600, the United States is trustee for certain natural resources at or near the Site.

32. Materials disposed of and released at the Site by Defendants include hazardous substances within the meaning of section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

33. Releases of hazardous substances have occurred at the Site within the meaning of sections 101(22) of CERCLA, 42 U.S.C. § 9601(22).

34. The releases of hazardous substances at the Site have resulted in injury to, destruction of, or loss of natural resources within the trusteeship of the United States.

35. Defendants are liable to Plaintiff for natural resource damages resulting from releases of hazardous substances pursuant to section 107(a)(4)(C) of CERCLA, 42 U.S.C. § 9607(a)(4)(C).

VIII. FOURTH CLAIM FOR RELIEF

36. Plaintiffs reallege paragraphs 1 through 35.

37. Section 1002(a) of OPA, 33 U.S.C. § 2702(a), provides in pertinent part, as follows:

Notwithstanding any other provision or rule of law, and subject to the provisions of this Act, each responsible party for a vessel or a facility from which oil is discharged, or which poses the substantial threat of a discharge of oil, into or upon the navigable waters or adjoining shorelines or the exclusive economic zone is liable for the removal costs and damages specified in subsection (b) of this section that result from such incident.

38. Section 1002(b)(2)(A) of OPA, 33 U.S.C. § 2702(b)(2)(A), provides in pertinent part, as follows:

Damages for injury to, destruction of, loss of, or loss of use of, natural resources, including the reasonable costs of assessing the damage, which shall be recoverable by a United States trustee, a State trustee, an Indian Tribe trustee, or a foreign trustee.

39. The aluminum production plant owned or operated by Defendants is a facility within the meaning of sections 1001(9) and 1002 of OPA, 33 U.S.C. §§ 2701(9) and 2702.

40. Defendants are responsible parties within the meaning of section 1001(32) of OPA, 33 U.S.C. § 2701(32).

41. The discharge of oil into or upon navigable waters or adjoining shorelines at the Site has resulted in injury to, destruction of, or loss of natural resources within the trusteeship of the United States.

42. Defendants are liable to Plaintiff for natural resource damages resulting from discharges of oil pursuant to section 1001 of OPA, 33 U.S.C. § 2701.

IX. FIFTH CLAIM FOR RELIEF

43. Plaintiffs reallege paragraphs 1 through 42.

44. Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), provides in pertinent part, as follows:

The discharge of oil or hazardous substances (i) into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone . . . or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States . . . in such quantities as may be harmful as determined by the President under paragraph (4) of this subsection, is prohibited

45. Section 311(f)(2) of the CWA, 33 U.S.C. § 1321(f)(2), provides in pertinent part, as follows:

Except where an owner or operator of an onshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United State Government, or (D) an act or omission of a third party without regard to whether an such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section shall be liable to the United States Government for the actual costs incurred under subsection (c) of this section for the removal of such oil or substance by the United States Government

46. Section 311(f)(4) of the CWA, 33 U.S.C. § 1321(f)(4), provides in pertinent part, as follows:

The costs of removal of oil or a hazardous substance for which the owner or operator of a vessel or onshore or offshore facility is liable under subsection (f) of this section shall include any costs or expenses incurred by the Federal Government or any State government in the restoration or replacement of natural resources damaged or destroyed as a result of a discharge of oil or a hazardous substance in violation of subsection (b) of this section.

47. The aluminum production plant owned or operated by Defendants is an onshore facility within the meaning of section 311(f)(1) of the CWA, 33 U.S.C. § 1321(f)(1).

48. There have been discharges of oil or hazardous substances in harmful quantities into navigable waters or adjoining shorelines at the facility owned or operated by Defendants.

49. Discharges of oil or hazardous substances from the facility owned or operated by Defendants into navigable waters or adjoining shorelines have affected, damaged or destroyed natural resources belonging to, appertaining to, or under the exclusive management authority of the United States.

50. Defendants are liable to the United States for natural resource damages resulting from discharges of oil or hazardous substances into navigable waters or adjoining shorelines pursuant to section 311(f) of the CWA, 33 U.S.C. § 1321(f).

X. REQUEST FOR RELIEF

WHEREFORE, Plaintiff requests that this Court enter judgment against Defendants:

(1) For injunctive relief as may be necessary to abate the imminent and substantial endangerment to the public health or welfare or the environment posed by the contamination at the Site;

(2) For reimbursement of all costs incurred and to be incurred by the United States arising from response activities related to the releases or threatened releases of hazardous substances at or from the Site;

(3) Ordering that Defendants reimburse Plaintiff for all costs of enforcement of CERCLA, including attorneys fees, costs, expenses, and interest thereon, incurred in this action;

(4) For damages for injury to natural resources resulting from the discharges or releases of hazardous substances at the Site, including the cost of assessing such damages; and

(5) Awarding Plaintiff such other and further relief as this Court may deem appropriate.

Dated: January __, 2008

Respectfully submitted,

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